



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND
INSURANCE TENNESSEE REAL ESTATE
COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243
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<https://www.tn.gov/commerce/regboards/trec.html>

MINUTES

The Tennessee Real Estate Commission held a meeting December 5, 2018 at 8:30 a.m. CST in Room 1A of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, TN 37243. The Meeting was called to order by Chairman John Griess.

Chairman John Griess welcomed everyone to the Board meeting.

Executive Director Caitlin Maxwell read the public disclaimer and called the roll. The following Commission Members were present: Chairman John Griess, Commissioner Diane Hills, Vice-Chair Marcia Franks, Commissioner Bobby Wood, Commissioner Geoffrey Diaz, Commissioner Fontaine Taylor, Commissioner Austin McMullen, and Commissioner Johnny Horne. Commissioner Richard Douglass was absent. Quorum Confirmed. Others present: Chief Counsel Denard Mickens, Assistant General Counsel Anna D. Matlock, Assistant General Counsel Erica Smith, Assistant General Counsel Kelsey J. Bridges, paralegal Amanda Dean, Executive Director Caitlin Maxwell, Education Director Ross White, and TREC staff member Aaron Smith.

The December 5, 2018 board meeting agenda was submitted for approval.

The agenda was amended to include discussion of the Bill Tune Award, and clerical change of Informal Hearing to Informal Appearances. Motion passed unanimously.

INFORMAL APPEARANCES

Jacqueline Roelke appeared before the Commission along with her Principal Broker, Matthew Ligon. Ms. Roelke requested approval to obtain her Affiliate Broker license.

Motion to approve Ms. Roelke was made by Commissioner Taylor and seconded by Vice-Chair Franks. Motion passed unanimously.

Tara Kersch appeared before the Commission along with her Principal Broker, LaShonda Jones. Ms. Kersch requested approval to obtain her Affiliate Broker license.

Motion to approve Ms. Kersch was made by Commissioner Taylor, and seconded by Vice-Chair Franks. Motion passed 6-1 with Commissioner Wood voting against.

Samantha Bengston appeared before the Commission along with her Principal Broker, Aaron Moore. Ms. Bengston requested approval to obtain her Affiliate Broker license.

Motion to approve Ms. Bengston was made by Vice-Chair Franks, and seconded by Commissioner Wood. Discussion included Ms. Bengston holding a Texas real estate license. Motion passed unanimously.

EDUCATION REPORT

Education Director Ross White presented the Education Report to the Commission.

Motion to approve courses D1-D32 was made by Vice-Chair Franks and seconded by Commissioner Hills. Motion passed 8-0 with Commissioner Wood recusing himself on course D32.

Motion to approve Instructors was made by Vice-Chair Franks and seconded by Commissioner Taylor. Motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Caitlin Maxwell updated the Commission on expenditure increases as it relates to CORE Contracts, and Edison. However, the legal expenses have decreased. The Commission was updated on the new Errors and Omissions numbers, and education renewals.

COMMISSION DISCUSSIONS

Assistant Commissioner Carter Lawrence appeared before the Commission to update the Commission on November's meeting topic of reducing the frequency of board meetings. Commissioner Lawrence provided the Commission with a breakdown of expenditures and potential cost savings. Assistant Commissioner Lawrence answered questions and responded to comments from the Commission. The Commission agreed to continue to deliberate the issue.

FEE REDUCTION RULES UPDATE

Assistant General Counsel Anna D. Matlock presented a revised version of the fee reduction rules before the Commission. The rules pertain to fee reductions for licensure and education course fees.

The motion to accept counsel's revised rules was made by Commissioner Franks and seconded by Commissioner Wood. Motion passed unanimously.

CONSENT AGENDA & LEGAL REPORT:

CONSENT AGENDA:

The following cases were presented to the Commission via a Consent Agenda. All cases were reviewed by legal, legal has recommended dismissal. The Commission pulled the following cases for further discussion: 2018050381, 201805081, and 2018040311. Vice Chair Franks made the motion to accept the recommendation of legal counsel for cases 1-21 with the exception of cases 9 and 11; seconded by Commissioner Diaz. Motion passed 7-0, Commissioner McMullen being absent for the vote.

After further discussion by the Commission, Commissioner Wood made the motion to accept the recommendation of legal counsel to dismiss case 2018050381, seconded by Commissioner McMullen. Motion passed unanimously.

After further discussion by the Commission, Commissioner Taylor made the motion to accept the recommendation of legal counsel to dismiss case 2018050831, seconded by Vice-Chair Franks. Motion passed unanimously.

Commissioner McMullen made the motion to accept the recommendation of legal counsel for cases 22-33 with the exception of 24; seconded by Commissioner Diaz. Motion passed 7-0, Chairman Griess being absent for the vote.

After further discussion by the Commission, Commissioner Hills made the motion to accept the recommendation of legal counsel to dismiss case 2018040311, seconded by Commissioner Wood. Motion passed unanimously.

1) 2018041981	14) 2018072471	27) 2018042981
2) 2018042891	15) 2018071801	28) 2018044531
3) 2018043451	16) 2018067651	29) 2018041151
4) 2018044251	17) 2018070551	30) 2018046821
5) 2018044791	18) 2018074191	31) 2018048161
6) 2018045711	19) 2018077051	32) 2018048021
7) 2018046791	20) 2018071841	33) 2018051001
8) 2018049301	21) 2018070601	
9) 2018050381	22) 2018070021	
10) 2018050391	23) 2018034021	

11) 2018050831	24) 2018040311	
12) 2018052031	25) 2018041011	
13) 2018077401	26) 2018042481	

LEGAL REPORT:

KELSEY J. BRIDGES

1. 2018046601

Opened: 7/16/2018

Type of License: Unlicensed

History: None

Recommendation: Dismiss.

Decision: The Commission voted to issue a warning letter.

Motion made by Commissioner Hills, seconded by Vice-Chair Franks. Motion passed 7-0 with Commissioner McMullen abstaining.

2. 2018046721

Opened: 7/15/2018

Type of License: Unlicensed

History: None

Recommendation: Dismiss.

Decision: The Commission voted to issue a warning letter.

Motion made by Commissioner Hills, seconded by Vice-Chair Franks. Motion passed 7-0 with Commissioner McMullen abstaining.

3. 2018048101

Opened: 7/23/2018

First Licensed: 10/17/2016

Expires: 10/16/2020

Type of License: Affiliate Broker

History: None

Recommendation: Dismiss.

Decision: The Commission voted to issue a warning letter.

Motion made by Commissioner Wood, seconded by Commissioner Hills. Motion passed unanimously.

4. 2018041551

Opened: 6/25/2018

First Licensed: 1/13/2006

Expires: 1/12/2020

Type of License: Affiliate Broker

History: None

Recommendation: Four (4) hours of continuing education, above and beyond what is required for the maintenance of Respondent's license, to be completed within 180 days.

Decision: The Commission voted to issue a Consent Order with a \$500 civil penalty and require four (4) hours of continuing education in contracts, above and beyond what is required for the maintenance of Respondent's license, to be completed within 180 days.

Motion made by Commissioner McMullen, seconded by Commissioner Hills. Motion passed 7-1 with Commissioner Wood voting against.

5. 2018042131

Opened: 6/26/2018

Type of License: Unlicensed

History: None

Recommendation: \$1,000 civil penalty with language directing Respondent to cease and desist from further unlicensed activity.

Decision: The Commission voted to defer this decision.

Motion made by Commissioner Hills, seconded by Vice-Chair Franks. Motion passed 7-1 with Commissioner Wood voting against.

6. 2018043131

Opened: 6/29/2018

First Licensed: 10/15/2007

Expires: 10/14/2019

Type of License: Affiliate Broker

History: None

Recommendation: \$1,000 civil penalty for the violation of T.C.A. § 62-13-403.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Wood, seconded by Commissioner Diaz. Motion passed unanimously.

7. 2018043801
Opened: 7/2/2018
First Licensed: 6/14/2012
Expires: 6/13/2020
Type of License: Affiliate Broker
History: None

Recommendation: Letter of Instruction.

Decision: The Commission voted to issue a Consent Order with a \$500 civil penalty and require four (4) hours of continuing education in contracts, above and beyond what is required for the maintenance of Respondent's license, to be completed within 180 days.

Motion made by Commissioner Taylor, seconded by Commissioner Wood. Motion passed unanimously.

8. 2018046071
Opened: 7/12/2018
First Licensed: 09/16/2011
Expires: 09/15/2019
Type of License: Affiliate Broker
History: None

Recommendation: \$1,000 civil penalty for Respondent's failure to answer the complaint.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner McMullen, seconded by Commissioner Hills. Motion passed unanimously.

9. 2018046051
Opened: 7/12/2018
First Licensed: 9/11/2011
Expires: 9/13/2019
Type of License: Real Estate Firm
History: None

Recommendation: \$1,000 civil penalty for the violation of T.C.A. § 62-13-313.

Decision: The Commission voted to accept Counsel's recommendation, and to open a

complaint against the principal broker.

Motion made by Commissioner McMullen, seconded by Commissioner Hills. Motion passed unanimously.

10. 2018048181

Opened: 7/23/2018

First Licensed: 6/12/2008

Expires: 6/11/2020

Type of License: Affiliate Broker

History: None

Recommendation: Letter of Instruction.

Decision: The Commission voted to issue a Consent Order with a \$500 civil penalty and require four (4) hours of continuing education in contracts, above and beyond what is required for the maintenance of Respondent's license, to be completed within 180 days.

Motion made by Commissioner Taylor, seconded by Commissioner Wood. Motion passed unanimously.

11. 2018048611

Opened: 7/24/2018

Type of License: Unlicensed

History: None

Recommendation: Letter of Warning.

Decision: The Commission voted to issue a Consent Order with a \$1,000 civil penalty for unlicensed activity and to include cease and desist language in the Order.

Motion made by Vice-Chair Franks, seconded by Commissioner Hills. Motion passed 7-1. Chairman Griess voting against.

12. 2018050021

Opened: 7/26/2018

First Licensed: 4/11/2013

Expires: 8/23/2020

Type of License: Principal Broker

History: None

Recommendation: \$1,000 civil penalty for Respondent's violation of T.C.A. § 62-13-403.

Decision: The Commission voted to issue a Consent Order with a \$1,000 civil penalty and require four (4) hours of continuing education in contracts, above and beyond what is

required for the maintenance of Respondent's license, to be completed within 180 days.

Motion made by Vice-Chair Franks, seconded by Commissioner Diaz. Motion passed 6-2 with Chairman Griess, and Commissioner Hills voting against.

13. 2018039701

Opened: 6/18/2018

First Licensed: 8/19/2009

Expires: 8/18/2019

Type of License: Time Share Registration

History: None

Recommendation: \$1,000 civil penalty for failure to respond.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner McMullen, seconded by Commissioner Hills. Motion passed unanimously.

NOTE REGARDING THE FOLLOWING COMPLAINT NUMBERS #11 THROUGH #14:

Beginning in or around September, 2018, the Commission started receiving complaints from individuals stating they were contacted (and in some cases, scammed) by entities and individuals claiming to be licensed Tennessee firms and brokers. In each instance, the fraudulent entity or individual was able to provide the name and license number for actual licensees, but provided different contact information. Commission staff and Legal have been working in conjunction with an investigator from the Attorney General's office to locate the perpetrators of this fraud as complaints continue to come in, both against and from licensees. Counsel recommends the Commission direct these matters go into "litigation monitoring" so that sufficient time may be afforded to resolve the issues for both the consumers and licensees involved.

14. 2018081191

Opened: 11/19/2018

Type of License: Unlicensed

History: None

Recommendation: Litigation monitoring.

Decision: The Commission voted to accept Counsel's recommendation.

15. 2018082011

Opened: 11/21/2018

Type of License: Unlicensed

History: None

Recommendation: Litigation monitoring.

Decision: The Commission voted to accept Counsel's recommendation.

16. 2018078821

Opened: 11/8/2018

Type of License: Unlicensed

History: None

Recommendation: Litigation monitoring.

Decision: The Commission voted to accept Counsel's recommendation.

17. 2018076581

Opened: 10/29/2018

Type of License: Unlicensed

History: None

Recommendation: Litigation monitoring.

Decision: The Commission voted to accept Counsel's recommendation.

For numbers 14-17: Motion made by Commissioner McMullen, seconded by Commissioner Hills. Motion passed unanimously.

ERICA SMITH

18. 2018044991

Opened: 7/9/2018

First Licensed: 9/4/2013

Expires: 9/3/2019

Type of License: Affiliate Broker

History: None

Recommendation: Dismiss.

Decision: The Commission voted to issue a Consent Order with a \$500 civil penalty for failure to exercise reasonable skill and care, Tenn. Code Ann. § 62-13-403(1).

Motion made by Commissioner Wood, seconded by Commissioner Taylor. Motion passed unanimously.

19. 2018045521

Opened: 7/10/2018

First Licensed: 10/21/2014

Expires: 10/20/2020

Type of License: Affiliate Broker

History: None

Recommendation: Dismiss.

Decision: The Commission voted to issue a Consent Order with a \$500 civil penalty for failure to exercise reasonable skill and care, Tenn. Code Ann. § 62-13-403(1).

Motion made by Commissioner Wood, seconded by Commissioner McMullen. Motion passed unanimously.

20. 2018046171

Opened: 7/13/2018

First Licensed: 2/19/2008

Expires: 2/9/2020

Type of License: Affiliate Broker

History: None

Recommendation: \$1,000 civil penalty for failure to respond.

Decision: The Commission voted to issue a Consent Order with a \$1,000 civil penalty and require four (4) hours of continuing education in agency, above and beyond what is required for the maintenance of Respondent's license, to be completed within 180 days.

Motion made by Commissioner McMullen, seconded by Commissioner Taylor. Motion passed unanimously.

21. 2018046741

Opened: 7/17/2018

First Licensed: 4/17/2002

Expires: 1/7/2020

Type of License: Affiliate Broker

History: 2010 Consent Order with civil penalty for failure to maintain E&O insurance

Recommendation: \$500 civil penalty for violation of Tenn. Comp. R. & Reg. 1260-02-.12(3)(b).

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner McMullen, seconded by Commissioner Taylor. Motion passed unanimously.

22. 2018049311

Opened: 7/25/2018

First Licensed: 6/25/2004

Expires: 6/20/2020

Type of License: Real Estate Broker

History: None

Recommendation: Dismiss.

Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner McMullen, seconded by Commissioner Hills. Motion passed unanimously.

23. 2018049321

Opened: 7/25/2018

First Licensed: 9/1/1995

Expires: 10/4/2020

Type of License: Real Estate Broker

History: None

Recommendation: Letter of Instruction and Warning for failure to supervise and to open a complaint against the affiliate broker.

Decision: The Commission voted to issue a Letter of Instruction and Warning for failure to supervise.

Motion made by Commissioner McMullen, seconded by Commissioner Taylor. Motion passed unanimously.

REPRESENTS

24. 2018039001

Opened: 6/15/2018

Type of License: Unlicensed

History: None

New Information:

The Respondent submitted their application for a VLS license on 11/27/18 and provided a letter stating they intend to fully comply with our directive to secure the VLS license as set forth in the statute. Respondent's owner will be the designated agent for this license. The owner attended an 8 hour VLS Pre-License course offered by TREES, Inc. and provided the certificate. Respondent requests the Commission delay imposing any negative action if

their applications have not been approved by the date of this meeting.

New Recommendation: Dismiss.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner McMullen, seconded by Commissioner Taylor. Motion passed unanimously.

25. 2017040011

Opened: 6/21/2017

First Licensed: 12/7/2015

Expires: 12/6/2017

Type of License: Real Estate Firm

History: None

New Information:

Counsel sent an investigator to serve the Respondent with the Consent Order and the Respondent's daughter stated they had moved out of state and she was not willing to sign for or accept the Consent Order for Respondent.

Counsel recommends closing and flagging this complaint as we have exhausted our efforts with this Respondent and sent a referral letter to the DA's office regarding this complaint.

New Recommendation: Close and flag.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner McMullen, seconded by Commissioner Taylor. Motion passed unanimously.

26. 2018029061

Opened: 4/30/2018

First Licensed: 5/12/1987

Expires: 9/9/2019

Type of License: Affiliate Broker

History: None

New Information:

Counsel was unaware that Respondent had provided a timely response to this complaint until after this was presented at the last meeting. Counsel has since reviewed the response. Respondent states they are unsure how exactly to respond to this complaint due to the nature and inaccurate information provided by the Complainant. Complainant does not

provide a property address, identities of all parties involved and provides no documentation to support the unfounded allegations. Respondent notes they are not even a licensee of the firm Complainant refers to, as they are the managing broker of another firm and there have been no transactions with the party referred to in the complaint at Respondent's firm. Respondent also states that the firm is not in possession of any money belonging to the party referred to in the complaint. Respondent denies the allegations and will provide any additional requested information if necessary.

Counsel finds no evidence that Respondent has committed any violations and recommends dismissal.

New Recommendation: Void the Consent Order and dismiss this complaint.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner McMullen, seconded by Commissioner Wood. Motion passed unanimously.

27. 2018026961

Opened: 4/24/2018

First Licensed: 11/20/2017

Expires: 11/19/2019

Type of License: Affiliate Broker

History: None

New Information:

Respondent called Counsel once the Consent Order was received and explained that after more careful review and consideration, they realized the Facebook post was actually compliant with the one-click rule. Counsel agrees and recommends voiding the Consent Order and dismissing this complaint.

New Recommendation: Void Consent Order and dismiss this complaint.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Wood, seconded by Commissioner Hills. Motion passed unanimously.

28. 2018026941

Opened: 4/24/2018

First Licensed: 10/16/2015

Expires: 10/15/2019

Type of License: Affiliate Broker

History: None

New Information:

Respondent called Counsel once the Consent Order was received and explained that after more careful review and consideration; they realized the Facebook post was actually compliant with the one-click rule. Counsel agrees and recommends voiding the Consent Order and dismissing this complaint.

New Recommendation: Void Consent Order and dismiss this complaint.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Taylor, seconded by Commissioner Diaz. Motion passed unanimously.

29. 2018026981

First Licensed: 5/16/2007

Expires: 5/4/2019

Type of License: Principal Broker

History: None

New Information:

The affiliate brokers called Counsel after receiving the Consent Order and explained the Facebook post complied with the one-click rule and Counsel agrees and recommends dismissal of this complaint, as well as voiding the Consent Order.

New Recommendation: Void the Consent Order and dismiss this complaint.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner Hills, seconded by Commissioner Taylor. Motion passed unanimously.

30. 2018001891

Opened: 1/4/2018

First Licensed: 2/10/2003

Expires: 12/22/2019

Type of License: Affiliate Broker

History: None

New Information:

The civil suit has been dismissed with prejudice because the Complainant failed to appear or pursue this matter and Complainant's lien has been extinguished. Counsel finds no evidence Respondent committed any violations and recommends taking this matter out of Litigation Monitoring status and dismissal.

New Recommendation: Take the complaint out of Litigation Monitoring status and dismiss the complaint.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner McMullen, seconded by Commissioner Diaz. Motion passed unanimously.

31. 2018001921

Opened: 1/4/2018

First Licensed: 5/16/2007

Expires: 5/4/2019

Type of License: Principal Broker

History: None

New Information:

The civil suit has been dismissed with prejudice because the Complainant failed to appear or pursue this matter and Complainant's lien has been extinguished. Counsel finds no evidence Respondent committed any violations and recommends taking this matter out of Litigation Monitoring status and dismissal.

New Recommendation: Take the complaint out of Litigation Monitoring status and dismiss the complaint.

New Decision: The Commission voted to accept Counsel's recommendation.

Motion made by Commissioner McMullen, seconded by Commissioner Hills. Motion passed unanimously.